

HOUSE BILL NO. 510

INTRODUCED BY B. LAWSON

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE PROVISION OF NUTRITION, INCLUSIVE OF SUPPLEMENTS AND PRESCRIBED MEDICATIONS, THROUGH A GASTROSTOMY OR ~~JEJUNOTOMY~~ JEJUNOSTOMY TUBE BY CERTAIN PERSONS IS NOT WITHIN THE SCOPE OF THE PRACTICE OF NURSING; AMENDING SECTION 37-8-103, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 37-8-103, MCA, is amended to read:

"37-8-103. Exemptions -- limitations on authority conferred. (1) This chapter may not be construed as prohibiting:

(a) gratuitous nursing by friends or members of the family;

(b) incidental care of the sick by domestic servants or persons primarily employed as housekeepers;

(c) nursing assistance in the case of an emergency;

(d) the practice of nursing by students enrolled in approved nursing education programs;

(e) the practice of nursing in this state by any legally qualified nurse of another state whose engagement requires the nurse to accompany and care for a patient temporarily residing in this state during the period of one engagement not to exceed 6 months in length, provided that person does not represent to the public that the person is a nurse licensed to practice in this state;

(f) the practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency of the United States while in the discharge of that nurse's official duties;

(g) nursing or care of the sick, with or without compensation, when done in connection with the practice of the religious tenets of any well-established religion or denomination by adherents of the religion or denomination;

(h) nursing or care of a minor who is in the care of a licensed foster parent, to the same extent that the care may be provided by a parent or guardian;

(i) the execution of a death sentence pursuant to 46-19-103; ~~and~~

(j) nursing tasks delegated by licensed nurses to unlicensed persons according to rules adopted by the board; and

(k) the provision of nutrition, inclusive of supplements and medications prescribed by a physician, an advanced practice registered nurse, or a physician assistant-certified, to be administered to an individual through a gastrostomy or jejunostomy JEJUNOSTOMY tube by a parent, guardian, foster parent, surrogate parent, other family member, or individual, regardless of compensation, who is authorized and trained by the individual receiving the nutrition, inclusive of supplements and prescribed medications, or WHO IS AUTHORIZED AND TRAINED by a parent, guardian, foster parent, surrogate parent, or other adult family member. The exemption in this subsection (1)(k) does not apply to provision of nutrition, inclusive of supplements and prescribed medications, in a licensed facility that provides skilled nursing care as provided in Title 50, chapter 5.

(2) This chapter may not be construed:

(a) as conferring any authority to practice medicine, surgery, or any combination of medicine or surgery;

(b) to confer any authority to practice any of the healing arts prescribed by law to be practiced in the state of Montana; or

(c) to permit any person to undertake the treatment of disease by any of the methods employed in the healing arts unless the licensee has been qualified under the applicable law or laws licensing the practice of those professions or healing arts in the state of Montana.

(3) (a) This chapter may not be construed to apply to a personal assistant performing health maintenance activities and acting at the direction of a person with a disability.

(b) The following definitions apply to this subsection:

(i) "Health care professional" means an individual licensed pursuant to Title 37 as a physician assistant-certified, ~~nurse-practitioner~~ advanced practice registered nurse, registered nurse, or occupational therapist or a medical social worker working as a member of a case management team for the purposes of the home- and community-based services program of the department of public health and human services.

(ii) "Health maintenance activities" includes urinary systems management, bowel treatments, administration of medications, and wound care if the activities in the opinion of the physician or other

1 health care professional for the person with a disability could be performed by the person if the person
2 were physically capable and if the procedure may be safely performed in the home.

3 (iii) "Physician" means an individual licensed pursuant to Title 37, chapter 3."
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5 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

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